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EXAMINER

BOSWELL, CHRISTOPHER J

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/585,980
Filing Date: August 15, 2006
Appellant(s): GUSTAVSSON, JACK

Robert E. Goozner
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 25, 2010 appealing from the Office action mailed October 29, 2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1, 2, 5, 8 and 10-15 are rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,386,122	Alizade	5-2002
4,158,338	Dippold et al.	6-1979
5,377,514	Robbins et al.	1-1995

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 10, 11, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,386,122 to Alizade.

Alizade discloses a security container (20) having at least one basic module (figure 1C), at least one floor element (40), at least one ceiling element (30), side wall elements (70) and one end piece (60), the side wall elements and the end piece being mounted between the floor element and the ceiling element at the basic module (figures 1A-1C), the basic module being attached to one door section (21) equipped with a lock device (24) in connection to at least one of the end piece and the side wall elements, wherein the door section, in its closed position, has parts protruding (the respective side surfaces that extend into the side wall rabbets) into or behind, or into and behind, adjacent side wall elements, and, in a locked position, has locking means (locking bolts that are disposed within apertures 88; column 7, lines 7-25) protruding into the floor element and into the ceiling element, the wall sections have outer and inner casings of metal (86), an intermediate space is partially filled with concrete (100), the container having

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metal casings (86) between which a plurality of scantlings (94) are arranged, and at least two independent of each other locking devices (the locking bolts, and anchor bolts column 6, lines 26-43) are arranged in connection to a door section in which at least one primary locking device (the combination lock 24) will protect against admission to a secondary head locking device (the anchor bolts prevent admission into the security container from the exterior), as in claim 1.

Alizade also discloses one or several basic modules of a same or of different shapes and with a certain maximal weight (column 7, lines 53-60), are equipped with bails (58) for an external application of lifting means, the bails in their attachment into the basic module have an intentionally limited strength (the tensile strength of the material the security bolt box is manufactured from), as in claim 2, wherein the security container comprises a plurality of basic modules (20 and 120), as in claim 14.

Alizade further discloses a security container (20) having at least one basic module (figure 1C), at least one floor element (40), at least one ceiling element (30), side wall elements (70) and one end piece (60), the side wall elements and the end piece being mounted between the floor element and the ceiling element at the basic module (figures 1A-1C), the basic module being attached to one door section (21) equipped with a lock device (24) in connection to at least one of the end piece and the side wall elements, wherein the door section, in its closed position, has parts protruding (the respective side surfaces that extend into the side wall rabbets) into or behind, or into and behind, adjacent side wall elements, and, in a locked position, has a locking element (locking bolts that are disposed within apertures 88; column 7, lines 7-25) protruding into the floor element and into the ceiling element, the wall sections have outer and inner casings

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of metal (86), an intermediate space is partially filled with concrete (100), the container having metal casings (86) between which a plurality of scantlings (94) are arranged, and at least two independent of each other locking devices (the locking bolts, and anchor bolts column 6, lines 26-43) are arranged in connection to a door section in which at least one primary locking device (the combination lock 24) will protect against admission to a secondary head locking device (the anchor bolts prevent admission into the security container from the exterior), as in claim 10.

Alizade additionally discloses one or several basic modules of a same or of different shapes and with a certain maximal weight (column 7, lines 53-60), are equipped with bails (58) for an external application of lifting means, the bails in their attachment into the basic module have an intentionally limited strength (the tensile strength of the material the security bolt box is manufactured from), as in claim 11, wherein the security container comprises a plurality of basic modules (20 and 120), as in claim 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alizade, as applied above, in view of U.S. Patent Number 4,158,338 to Dippold et al.

Alizade discloses the invention substantially as claimed. However, Alizade does not disclose the concrete in the wall sections of the security container has a ballast of rubber pieces.

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Dippold et al. teaches of a safe consisting of wall panels having two laminar units each including a core layer of particulate, sintered, aluminum oxide, a perforated metal shell enveloping the layer, and a continuous mass consisting essentially of elastomeric material enveloping the shell and extending into the layer through the perforations of the shell (column 2, lines 38-49) in the same field of endeavor for the purpose of making the safe burglar resistant (column 1, lines 15-40). It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate an elastomeric material, as taught by Dippold et al. into the concrete of Alizade in order to have the security container more resistant to unauthorized access.

Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alizade, as applied above, in view of U.S. Patent Number 5,377,514 to Robbins et al.

Alizade discloses the invention substantially as claimed. Alizade discloses the primary locking device hiding the secondary locking device (preventing entry to the interior of the module, thus denying access to the bolts). However, Alizade does not disclose the primary locking device has a shape of a mortise lock. Robbins et al. teaches a locking device (22) for a security container (10) where a locking devices (18, 20 and 22) is arranged in connection to a door section (14), the primary locking device has the shape of a mortise lock (figures 1, 7 and 10) with a bayonet catch (18 and 20), in the analogous art of safe locking assemblies for the purpose of securely retaining the door in a closed position to thwart unauthorized access.

Because both Alizade and Robbins et al. teach methods for locking the door of a secure container, it would have been obvious to one with ordinary skill in the art to substitute the locking device in Alizade with the mortise locking device of Robbins et al. where the lever arm

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of the bayonet would be connected to the locking bolts to additionally actuate the locking bolts into the locking apertures, as well as the bayonet engaging a pin on the associated side wall element to achieve the predictable result of safely locking assemblies for the purpose of securely retaining the door in a closed position to thwart unauthorized access.

(10) Response to Argument

Regarding the argument concerning the objection on page 10, the examiner reminds the appellant the objections are not appealable, but rather petitionable.

In response to the argument, as best understood by the examiner in pages 12 and 15-16, that Alizade does not disclose a plurality of scantlings, the examiner respectfully disagrees. As the appellant is aware, the examiner must take the broadest reasonable interpretation in light of the specification; accordingly, as the specification recites, the scantlings are reinforcing wooden scantlings, and the claims are absent of any adjective modifying the scantlings, and thus the metal support brackets in Alizade are scantlings as claimed.

In regards to the argument, as best understood by the examiner in page 14, that Alizade does not disclose at least two independent locking devices, the examiner respectfully disagrees. The claims are absent as to what type of components and elements constitute the separate locking devices, accordingly it is unclear as to what is regarded as a locking device. Alizade discloses independent locking devices that are arranged in connection to a door section in which the combination lock will protect against admission to a secondary head locking device, the locking bolts and anchor bolts, where the bolts prevent admission into the security container from the exterior.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Christopher Boswell /cb/

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3673

Conferees:

Peter M. Cuomo /pmc/

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Appeals Conference Specialist